

Attorney's Docket: 2002DE133  
Serial No.: 10/660,079  
Group: 1714

### REMARKS

The Office Action mailed May 13, 2005, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

### CLAIM STATUS

Claims 1-19 are pending in this application. By this Amendment, all claims have been amended while new claims 20 – 25 have been added. The claims under consideration, therefore, include 1 - 25.

### Claim Objections

Claim 5 stands objected to because of the absence of a comma in line 4 of claim 5 after "n-dodecylene". In claim 5, line 4, the semicolon after the word "n-dodecylene" has been replaced with a comma.

Claim 10 stands rejected to under 37 CFR § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of the previous claim. It is believed that the Office intended to object to claim 11, which includes a Markush group. On that assumption, claim 11 now reflects dependency to claim 6 and the word "carbohydrate" has been replaced with the phrase "wherein the substance which forms carbon."

In view of the foregoing amendments and remarks, it is believed that the claims objections have been overcome.

### Claim Rejections Under 35 USC § 112, Second Paragraph

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Claims 13 and 14 stand rejected under 35 USC § 112, second paragraph as being indefinite. Specifically, the Office finds claim 13 indefinite for use of the word "dicyandiamides." Claim 13 has been amended, replacing the subject word with the word "dicyandiamide." Therefore, it is believed that the 35 USC § 112, second paragraph rejection has been overcome.

#### Claim Rejections Under 35 USC § 101

Claims 1-15 stand rejected under 35 USC § 101. The Office is of the position that the claimed invention is directed to non-statutory subject matter. Specifically, the Office objects to the word "coating" in the claim preamble. Claims 1 - 15 have been amended, amending the preamble to read a "fire protection coating material capable of forming an insulating layer ..." The 35 USC § 101 rejection, therefore, has been overcome.

#### Claim Rejections Under 35 USC § 102

Claims 1-5 and 16 stand rejected under 35 USC § 102(b) as being anticipated by Simkin (US 4001034). This rejection is respectfully overcome.

Independent claim 1 has been amended to remove zinc from the definition of M. As Simkin discloses only certain zinc compounds, it is respectfully contended that the 35 USC § 102 rejection in view of Simkin has been overcome.

#### Allowable Subject Matter

The Office finds that claims 17-19 stand objected as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and intervening claims. It is also stated that claim 16-19 would be allowable if rewritten to overcome the 35 USC § 101 and 112 rejections. By this amendment, claim 16 has been rewritten in independent form.

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**Statement of Reasons for Indication of Allowable Subject Matter**

In the section entitled "Statements of Reasons For Indication of Allowable Subject Matter," the Office states, "however, there is no suggestion in the prior art considered to employ aluminum diethylphosphinate for any purpose in coating materials having a film-forming binder." Applicants assert that independent claim 16 independently patentable without reference to aluminum diethylphosphinate.

The Commissioner is hereby authorized to charge deposit account 03-2060 \$250.00 for the 5 additional dependent claims. The Commissioner is also authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 03-2060.

In view of the forgoing amendments and remarks, the present application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he/she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,



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